

FAIR SHARE HOUSING CENTER

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Attorneys for Third Party

Defendants Fair Share Housing

Center, Southern Burlington County

Branch of NAACP, Camden County

Branch of NAACP

By: Peter J. O'Connor, Esq.

Kevin D. Walsh, Esq.

RECEIVED

APR 16 2003

DICKINSON R. DEBEVOISE
U.S.D.J.

APR 17 2003

RECEIVED
U.S. DISTRICT COURT
APR 15 2003

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**Newark Coalition for Low
Income Housing, et al.**

Plaintiffs,

v.

**Housing Authority of the City
of Newark, et al.**

**Defendants, Third-party
Plaintiffs,**

v.

**Fair Share Housing Center,
Southern Burlington County
Branch of NAACP, Camden County
Branch of NAACP, Camden City
Taxpayers Association,**

Third-party Defendants.

Hon. Dickinson R. Debevoise

Civil Action No. 89-1303 (DRD)

**SETTLEMENT AGREEMENT AND
CONSENT ORDER**

ENTERED

APR 17 2003

A. Hargis

UNITED STATES
DISTRICT COURT

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WILLIAM T. WALSH, CLERK
2003 APR 15 P 3 20

WHEREAS the following two cases brought by Fair Share Housing Center, Southern Burlington County Branch of NAACP, Camden County Branch of NAACP, and the Camden City Taxpayers Association are

pending before the New Jersey Superior Court, Appellate Division:
In re Adoption of the 2002 Low Income Housing Tax Credit Qualified
Allocation Plan, N.J.A.C. 5:80-33.1 to -33.40, by the New Jersey
Housing and Mortgage Finance Agency, Docket No.: A-10-02T2, and In
re Allocation of Federal Low Income Housing Tax Credits Under the
Urban, Hope VI, and Final Cycles Pursuant to the 2002 Low Income
Housing Tax Credit Qualified Allocation Plan, N.J.A.C. 5:80-33.1 to
-33.40, by the New Jersey Housing and Mortgage Finance Agency,
Docket No.: A-1551-02T2; and

WHEREAS A-10-02-T2 is a challenge to Low Income Housing Tax
Credit regulations promulgated by the New Jersey Housing and
Mortgage Finance Agency (HMFA) and A-1551-02-T2 is a challenge to
certain allocations of tax credits made by HMFA pursuant to those
regulations; and

WHEREAS the third-party defendants are alleging in A-10-02-T2
and A-1551-02-T2 that HMFA through its administrative action has
violated state and federal statutory and constitutional provisions
by perpetuating and exacerbating racial and economic segregation in
housing in New Jersey; and

WHEREAS JS Urban Renewal LP, a developer that has been
selected to participate in the Housing Authority of the City of
Newark's Hope VI Revitalization Program, was notified by HMFA in
October 2002 that it had received an allocation of \$2,100,000 of
2002 tax credits and a reservation of \$999,985 of 2003 tax credits;
and

WHEREAS on or about November 20, 2002, Fair Share Housing Center, Southern Burlington County Branch of NAACP, Camden County Branch of NAACP, and the Camden City Taxpayers Association filed an appeal of HMFA's allocation of tax credits to JS Urban Renewal LP and has appealed other allocations in A-1551-02-T2 to the New Jersey Superior Court, Appellate Division; and

WHEREAS the Newark Housing Authority of the City of Newark ("NHA") is the defendant in the subject litigation brought by the Newark Coalition for Low Income Housing that is pending before the Hon. Dickinson R. Debevoise, U.S.D.J.; and

WHEREAS the NHA was required by an Order and a Settlement Agreement dated May 25, 1999 to apply to the United States Department for Housing and Urban Development ("HUD") for a certain Hope VI Revitalization grant; and

WHEREAS the NHA applied for and received HUD approval of the subject Hope VI Revitalization grant; and

WHEREAS the NHA on or about March 21, 2003 filed a verified Third-party complaint against Fair Share Housing Center, Southern Burlington County Branch of NAACP, Camden County Branch of NAACP, and the Camden City Taxpayers Association seeking to temporarily and permanently enjoin further state court proceedings by them involving tax credits allocated by HMFA with regard to the redevelopment efforts that form part of the Hope VI Revitalization Program, including a request to enjoin the above-described State Court Appellate Division Tax Credit appeals as they affect or may

affect the implementation of the subject HOPE VI Revitalization grant; and

WHEREAS the NHA in its verified Third-Party Complaint sought to enforce the May 25, 1999 Order and Settlement Agreement referred to above against the third-party defendants by enjoining them from challenging tax credit allocations made to developers, such as JS Urban Renewal LP, with regard to all present and future tax credit allocations made in connection with the Hope VI Revitalization grant; and

WHEREAS following an appearance before Judge Debevoise on March 26, 2003 representatives of the Newark Housing Authority (Harold Lucas, Raymond A. Brown, Esq., Oliver Lofton, Esq., Karen Torian), the Newark Coalition for Low Income Housing (Jon Dubin, Esq.), and the third-party defendants (Peter J. O'Connor, Esq. and Kevin D. Walsh, Esq.) met with Special Master Gustav Henningburg, Mary Ann Russ (Abt Associates), Richard Evert, Esq. (HMFA), and others to discuss the possibility of settlement of the case brought against third-party defendants by the NHA; and

WHEREAS the third-party defendants maintain that the claim for injunctive relief in the third-party complaint is without merit, but consider it desirable to settle this action in the manner and upon the terms and conditions hereinafter set forth to avoid further expense, inconvenience, and the distraction of burdensome litigation; and

WHEREAS on April 3, 2003 the Court held a hearing on the NHA's motion for a preliminary injunction and the feasibility of the implementation by the NHA of a Mobility Opportunity Program, dated March 31, 2003, prepared by the Court's expert, Mary Ann Russ, Abt Associates; and

WHEREAS the Court considered the April 2, 2003 memorandum to the Court and all counsel from Oliver Lofton, Deputy General Counsel for the NHA, objecting to the above Mobility Opportunity Program, the April 3, 2003 letter to the Court and all counsel from Jon C. Dubin, counsel for the plaintiffs, Newark Coalition for Low Income Housing, et al., testimony from Mary Ann Russ, Abt Associates, and witnesses presented by the NHA, and oral arguments of counsel for the NHA, Newark Coalition for Low Income Housing, et al., and the Third-party Defendants; and

WHEREAS representatives of the NHA and of Third-party Defendants Fair Share Housing Center, Southern Burlington County Branch of NAACP, Camden County Branch of NAACP, and the Camden City Taxpayers Association have discussed the terms of a potential settlement with Ms. Russ and Mr. Dubin and have shared with all parties the terms of that proposed settlement; and

WHEREAS it appears that all parties have accepted the terms of the settlement, with certain time and cost limitations, as addressed below; and

NOW, THEREFORE, subject to final approval of the Court, the parties agree as follows:

1. This Settlement Agreement is between the NHA and Third-party Defendants Fair Share Housing Center, Southern Burlington County Branch of NAACP, Camden County Branch of NAACP, and the Camden City Taxpayers Association.
2. The Third-Party Defendants shall withdraw with prejudice their Appeal pending as A-1551-02-T2 with regard to JS Urban Renewal LP's allocation of \$2,100,000 of 2002 tax credits and reservation of \$999,985 of 2003 tax credits or any substitution or exchange for these credits by HMFA in 2003 applicable to the same part of the Hope VI project and in the same amount. The Third-Party Defendants' consent to the withdrawal of the appeal with regard to that allocation and that withdrawal is without prejudice to their right to challenge future allocations and/or reservations of tax credits. Third-Party Defendants agree not to seek any retroactive relief in their appeal pending as A-10-02T2 insofar as such retroactive relief would affect JS Urban Renewal LP's allocation of \$2,100,000 2002 tax credits and the reservation of \$999,985 2003 tax credits, or any substitution or exchange for these credits by HMFA in 2003 applicable to the same part of the Hope VI project and in the same amount.
3. A Stipulation of Dismissal by and between the Third-party Defendants and JS Urban Renewal, LP, a respondent in

appeal A-1551-02T2 pending in the Appellate Division, shall be filed by the Third-Party Defendants in the Appellate Division within three days of the receipt of this order with copies provided to the parties herein and a copy filed with this Court. Third-party Defendants shall take all reasonable steps necessary to secure such dismissal, including, but not limited to, the filing of a motion for dismissal.

4. The Third-Party Complaint filed by the Newark Housing Authority against the Third-Party Defendants shall be and hereby is stayed by the Court, and the Third-Party Defendants are not required to file any responsive pleadings until further order of the court.
5. The NHA shall implement the Mobility Opportunity Program set forth in the attached document labeled Exhibit A, which is a four-page March 31, 2003 memorandum from Mary Ann Russ of Abt Associates, as limited in paragraph 6 below.
6. The NHA shall implement the Mobility Opportunity Program commencing 30 days from the date of this Order and until further order of the Court. The cost of implementation of the Mobility Opportunity Program shall be paid for by the NHA in an amount not to exceed \$40,000 for the first year and in an amount not to exceed \$35,000 for each year

thereafter. The NHA may elect to exceed those amounts, but is not required to do so.

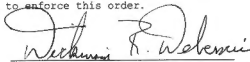
7. In the event that the cost for implementation of the Mobility Opportunity Program exceeds \$40,000 for the first year and \$35,000 for any year thereafter, the NHA shall have the right to petition the Court for relief from this Order. When computing the cost of implementation of the Mobility Opportunity Program, the NHA shall not include the costs of the satisfaction of other obligations it was required to satisfy prior to the execution of this Settlement Agreement and Consent Order, including, but not limited to, the pre-existing obligations related to the mobility program for former Stella Wright Homes tenants.

8. Abt Associates shall monitor the subject Enhanced Mobility Program and provide timely copies of its reports to the Newark Housing Authority, plaintiffs Newark Coalition for Low Income Housing and Third Party Defendants. The oversight and enforcement procedures addressed at pages 4-5 of the May 25, 1999 Settlement Agreement are incorporated herein by reference.

9. This Settlement Agreement is enforceable upon application to the Court and may be modified only with the written consent of the parties and/or by order of the Court. Plaintiffs Newark Coalition for Low Income Housing et al.

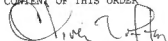
Third-party Defendants, and Third-party Plaintiff NHA
shall have standing to enforce this order.

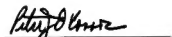
Dated: April 14, 2003

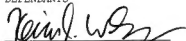

DICKINSON R. DEBEVOISE, U.S.S.D.J.

4/16/03,

CONSENT TO THE FORM AND
CONTENT OF THIS ORDER


OLIVER LOFTON, ESQUIRE
COUNSEL FOR NEWARK
HOUSING AUTHORITY


PETER J. O'CONNOR, ESQUIRE
COUNSEL FOR THIRD-PARTY
DEFENDANTS


KEVIN D. WALSH, ESQUIRE
COUNSEL FOR THIRD-PARTY
DEFENDANTS